

Serial No. 10/724,326
Atty. Doc. No. 2003P17844US

REMARKS

Applicants gratefully acknowledge the Examiner's notation of allowance subject matter. Applicants have added new claims 15 - 19. Thus, claims 1-19 are pending and presented for examination. Applicants respectfully request reconsideration and allowance of the pending claims in view of the foregoing amendments and the following remarks.

Response To Rejections Under Section 102:

Claims 1, 2, 4-7, 9, 13 and 14 stand rejected under 35 U.S.C. § 102(b), the Examiner contending that these claims are anticipated by Dailey (USPN 5,423,473). The Examiner reads Dailey as disclosing Applicants' claimed invention and notes that the type of component to be processed in the fixture does not further limit the apparatus.

Claim 1 recites: (1) a tie arm base having a coefficient of thermal expansion relatively of the same order of magnitude as the predetermined coefficient of thermal expansion, (2) a plurality of adjustment arms having a coefficient of thermal expansion relatively of the same order of magnitude as the predetermined coefficient of thermal expansion, and (3) a plurality of tensioning arms having a coefficient of thermal expansion substantially less than the predetermined coefficient of thermal expansion

Applicants respectfully submit that MPEP 2115 indicates that these limitations, which relate to the fixture - not the apparatus, should be considered for purposes of patentability. In particular, MPEP 2115 explains that the *In re Young* court held that "the inclusion of the article formed within the body of the claim did not, without more, make the claim patentable" (emphasis added). MPEP 2115 further explains that the *In re Casey* court held that "the reference in claim 1 to adhesive tape handling do not expressly or impliedly require any particular structure in addition to that of Kienzle" (emphasis added). In contrast, Applicants' claims recite the additional structural limitations that certain of its elements have a certain coefficient of thermal expansion.

Dependent claims 2, 4-7, 9, 13 and 14 are also patentable based on their dependency from independent claim 1 as well as their own merit. Therefore, Applicants respectfully request that the Examiner withdraw the Section 102 rejection

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New Claims 15-18

New independent claim 15 is directed to a kit. MPEP 2115 states that the restrictions of MPEP 2115 do not apply to kit claims. The coefficient of thermal expansion limitations in kit claim 15 are not disclosed or suggested by Dailey. Thus, Applicants respectfully submit that claim 15 is patentable, as well as claims 16-18 which are patentable based on their dependency from independent claim 15 as well as based on their own merit.

New Claim 19

New independent claim 19 is directed to the subject matter of claims 10-12 that the Examiner indicated was allowable. Applicants specifically note that claim 19 does not include the coefficient of thermal expansion limitations. Thus, Applicants respectfully submit that claim 15 is patentable,

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants respectfully request that the Examiner reconsider the rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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